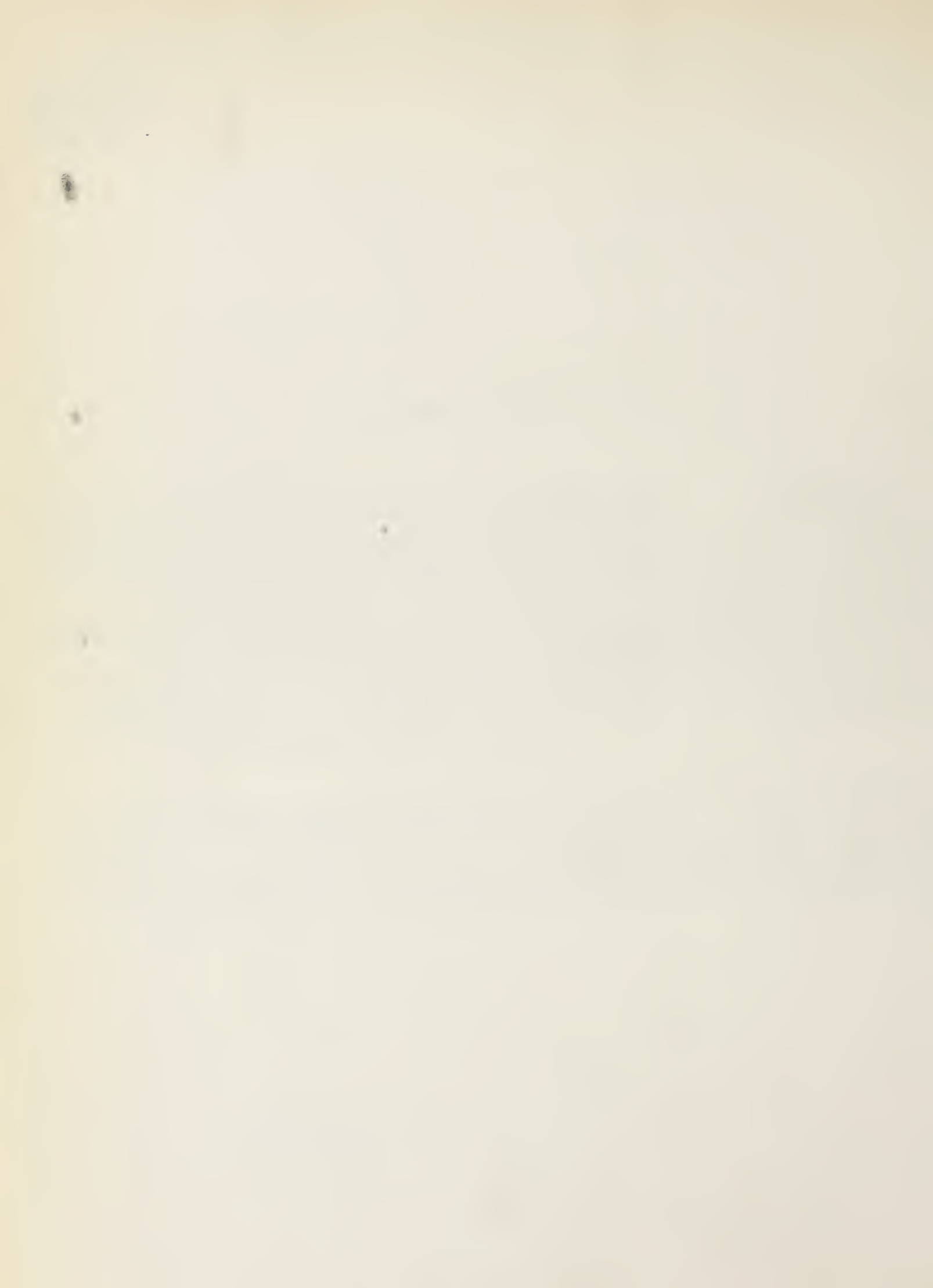
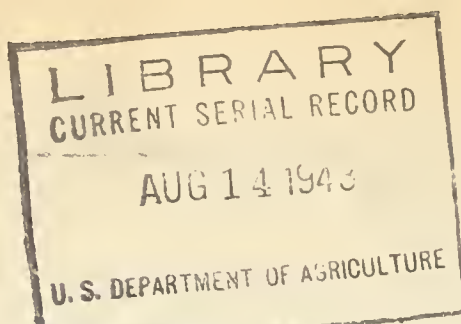


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14331



FDO 69

JULY 26, 1943

WAR FOOD ADMINISTRATION

[FDO 69]

PART 1405—FRUITS AND VEGETABLES

FRUIT FOR ALCOHOLIC PURPOSES

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of fruits for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1405.13 *Restrictions relative to the use of fruit*—(a) *Definitions*. When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "fruit" means apricots, blackberries, blueberries, Boysenberries, cantaloupes, cherries, currants, dates, dewberries, elderberries, gooseberries, Concord grapes, huckleberries, Johnsonberries, Loganberries, Olympic berries, peaches, pears, pineapples, plums, prunes, raspberries, strawberries, Youngberries and apples of any variety, type, or form whatsoever, including the fresh, dried, canned, frozen, or other processed or partially processed form, and the juices thereof, and such other fruits as the Director may hereafter designate, including the fresh, dried, canned, frozen, or other processed or partially processed form, and the juices thereof.

(2) The term "alcoholic product" means any product produced by fermentation, distillation, or other means, containing an alcoholic content of 7 percent or more, by volume.

(3) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(4) The term "Director" means the Director of Food Distribution, War Food Administration.

(b) *Restrictions*. (1) No person may use fruit for conversion into an alcoholic product for sale, unless authorized to use fruit for such purpose by (i) a person designated by the Director or (ii) by a County U. S. D. A. War Board, established pursuant to Memorandum No. 921, issued by the Secretary of Agriculture of the United States on July 5, 1941, as amended, in the county in which such fruit is available for sale for conversion into an alcoholic product. An authorization, as aforesaid, with respect to a particular lot of fruit shall be issued by the

County U. S. D. A. War Board, for the county in which such fruit is available for sale for conversion into an alcoholic product, if such County U. S. D. A. War Board determines with respect to the particular lot of fruit that (i) such is unsuitable, except when converted into an alcoholic product, for human consumption; (ii) no market is available for such fruit for human consumption, except when such fruit is converted into an alcoholic product; (iii) the owner of such fruit and all previous owners, if any, have exercised all reasonable efforts to dispose of or utilize such fruit for human consumption prior to such fruit's becoming unsuitable, except when converted into an alcoholic product, for human consumption; and (iv) the granting of such permission to use the fruit for the aforesaid purpose is in accordance with such additional conditions, if any, as may be specified by the Director.

(2) No person may sell or deliver fruit with knowledge or reason to believe that such fruit or any portion thereof thus sold or delivered is to be used in violation of this order.

(c) *Audits and inspections*. The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises, or stocks of fruit, of any person, and to make such investigations as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(d) *Records and reports*. The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(e) *Petition for relief from hardship*. Any person affected by this order or by any decision of a designee pursuant to (b) (1) (i) hereof or by a decision of a County U. S. D. A. War Board pursuant to (b) (1) (ii) hereof who considers that compliance with this order or with such decision would work an exceptional and unreasonable hardship on him, may petition the Regional Administrator of the Food Distribution Administration, War Food Administration, serving the area (8 F.R. 9315) in which the fruit is avail-

able, for conversion into an alcoholic product for sale, for relief. Petitions for such relief shall be in writing, and shall set forth all pertinent facts and the nature of the relief sought. If such person is dissatisfied with the action of the Regional Administrator, he may, by requesting the Regional Administrator therefor, secure a review of such action by the Director. The Director may, thereupon, take such action as he deems appropriate, and such action shall be final.

(f) *Violations*. The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using fruit or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(g) *Delegation of authority*. The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director, and may be redelegated by him to any employee of the United States Department of Agriculture.

(h) *Communications*. All reports required to be filed hereunder and all communications concerning this order, except as provided in (e) hereof, shall be addressed to the Regional Administrator of the Food Distribution Administration, War Food Administration, serving the area (8 F.R. 9315) in which the person affected by the order resides or does business.

(i) *Effective date*. This order shall become effective at 12:01 a. m., e. w. t., July 28, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 26th day of July 1943.

MARVIN JONES,
War Food Administrator.

Press Release Immediate:
July 27, 1943.

The manufacture of alcoholic products from 25 varieties of fruits and berries will be restricted beginning July 28—in a step to meet military and civilian requirements for fresh, dried and processed fruits and berries, the War Food Administration said today.

The restrictions, which are contained in Food Distribution Order 69, effective July 28, apply to apples, apricots, blackberries, blueberries, boysenberries, cantaloupes, cherries, currants, dates, dewberries, elderberries, gooseberries, con-

cord grapes, huckleberries, johnsonberries, loganberries, olympic berries, peaches, pears, pineapples, plums, prunes, raspberries, strawberries and youngberries.

Quantities of these fruits and berries may be sold for conversion into alcoholic products only when a particular lot of fruit is unsuitable for human consumption, except when converted into an alcoholic product; or when there is no market available for such fruit for human consumption except when it is converted into an alcoholic product. In such cases, County Agricultural War Boards may exempt specific quantities of

fruits, provided the owner and previous owners have made a reasonable attempt to sell the fruit for food purposes.

WFA officials said that the general shortage of the 1943 deciduous fruit crop will prevent fulfillment of demands in all outlets and that controls are necessary to assure the movement of the crop into the food channels considered most essential.

The term alcoholic product is defined in the order as "any product produced by fermentation, distillation, or other means, containing an alcoholic content of 7 percent or more, by volume."

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FDO 69

AMDT. 1
OCT. 4, 1943

WAR FOOD ADMINISTRATION

[FDO 69, Amdt. 1]

PART 1405—FRUITS AND VEGETABLES

FRUIT FOR ALCOHOLIC PURPOSES

Food Distribution Order No. 69 (8 F.R. 10477), issued by the War Food Administrator on July 26, 1943, is hereby amended to read as follows:

§ 1405.13 *Restrictions relative to the use of fruit*—(a) *Definitions*. When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "fruit" means any variety, type, or form whatsoever, including the fresh, dried, canned, frozen, or other processed or partially processed form, of apples, apricots, cantaloupes, cherries, currants, Concord grapes, dates, peaches, pears, pineapples, plums, prunes, blackberries, blueberries, Boysenberries, dewberries, elderberries, gooseberries, huckleberries, Johnsonberries, Loganberries, Olympic berries, raspberries, strawberries, or Youngberries, or the juices thereof, or such other fruits as the Director may hereafter designate, including the fresh, dried, canned, frozen, or other processed or partially processed form, or the juices thereof.

(2) The term "alcoholic product" means any product containing alcohol produced by fermentation, distillation, or other means.

(3) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(4) The term "Director" means the Director of Food Distribution, War Food Administration.

(5) The term "Concord grapes" means and includes any and all strains of Concord type grapes of the purple slipskin varieties, including, but not limited to, the Concord, Cottage, Eaton, Hartford, Hicks, Rockwood, Ives, and Worden varieties.

(b) *Restrictions*. (1) No person shall use fruit in the production for sale of an alcoholic product which has an alcoholic content of 7 percent, or more, by volume, unless authorized to use fruit for such purpose by (i) a person designated by the Director or (ii) by the chairman or, in his absence, the secretary of the County U. S. D. A. War Board established pursuant to Memorandum No. 921, issued by the Secretary of Agriculture of

the United States on July 5, 1941, as amended, in the county in which such fruit is available. An authorization, as aforesaid, with respect to a particular lot of fruit shall be issued by the chairman or, in his absence, the secretary of the respective County U. S. D. A. War Board if such chairman or secretary determines with respect to the particular lot of fruit that (a) no market is available for such fruit for human consumption, except when used in the production of such alcoholic product for sale, having an alcoholic content of 7 percent, or more, by volume; or the fruit is unsuitable for human consumption, except when used in the production of such alcoholic product for sale, having an alcoholic content of 7 percent, or more, by volume; *Provided*, That the owner of such fruit and all previous owners, if any, have exercised, or prior to the fruit's becoming unsuitable for human consumption, did exercise, all reasonable efforts to dispose of or utilize such fruit for human consumption, except when used in the production of such alcoholic product for sale, having an alcoholic content of 7 percent, or more, by volume; and (b) the granting of such permission to use the fruit for the aforesaid purpose is in accordance with such additional conditions, if any, as may be specified by the Director.

(2) No person shall sell or deliver fruit with knowledge or reason to believe that such fruit or any portion thereof thus sold or delivered is to be used in violation of this order.

(3) No person shall use any alcoholic product, having an alcoholic content of less than 7 percent, by volume, produced from fruit, after the effective date of this order, in the production of a product having an alcoholic content of 7 percent, or more, by volume.

(4) The provisions of this order shall not apply to (i) the use of fruit in the manufacture of food flavoring or pharmaceutical flavoring, or (ii) the use of fruit in the production, by the addition of an alcoholic product, of food flavoring, pharmaceutical flavoring, food flavoring extract, pharmaceutical flavoring extract, food flavoring concentrate, or pharmaceutical flavoring concentrate.

(5) The restrictions hereof shall be observed by each person affected by this order without regard to the rights of creditors, existing contracts, or payments made.

(6) Notwithstanding any other provision hereof, the Director may, if he deems that such will tend to effectuate the purposes of this order, authorize the use of fruit in the production of an alcoholic product for sale, having an alcoholic content of 7 percent, or more, by volume.

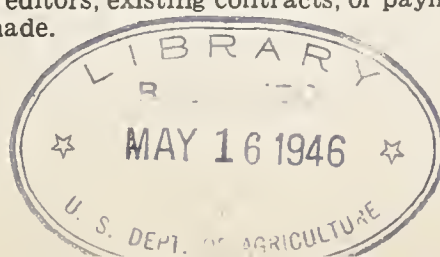
(c) *Audits and inspections*. The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises, or stocks of fruit or alcoholic products, of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(d) *Records and reports*. (1) The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(2) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in fruit.

(3) The record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping or reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(e) *Petition for relief from hardship*. Any person affected by this order or by any decision of a designee, pursuant to paragraph (b) (1) (i) hereof, or by a decision of a chairman, or secretary of a County War Board, pursuant to paragraph (b) (1) (ii) hereof, who considers that compliance with this order or with such decision would work an exceptional and unreasonable hardship on him, may petition the Regional Director of the Food Distribution Administration, War Food Administration, serving the area (8 F.R. 9315, 11198) in which the fruit is available, for conversion into an alcoholic product for sale, for relief. Petitions for such relief shall be in writing, and shall set forth all pertinent facts and the nature of the relief sought. If the petitioner is dissatisfied with the action of the Regional Director, such person may secure a review of such ac-



tion by the Director. The Director may, thereupon, take such action as he deems appropriate, and such action shall be final.

(f) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using fruit or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who willfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted

to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(g) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director, and may be re-delegated by him to any employee of the United States Department of Agriculture.

(h) *Territorial extent.* This order shall apply only to the forty-eight States of the United States and the District of Columbia.

(i) *Communications.* All reports required to be filed hereunder and all communications concerning this order, except as provided in paragraph (e) hereof, shall be addressed to the Regional Director of the Food Distribution Adminis-

tration, War Food Administration, serving the area (8 F.R. 9315, 11198) in which the person affected by the order resides or does business.

(j) *Effective date.* This order shall become effective 12:01 a. m., e. w. t., October 6, 1943. With respect to any violation of said Food Distribution Order No. 69, prior to the effective time of the provisions hereof, said Food Distribution Order No. 69 shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 4th day of October 1943

MARVIN JONES,
War Food Administrator.

Press Release Immediate:
Tuesday, October 5, 1943.

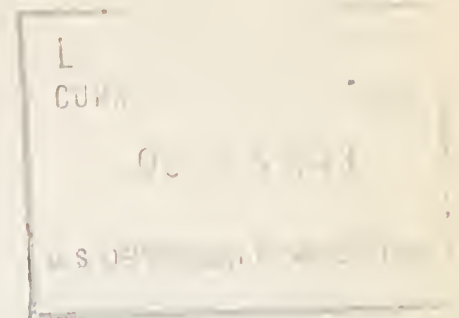
Effective October 6, manufacturers of food and pharmaceutical flavorings, extracts, and concentrates will not be affected by the provisions of Food Distribution Order 69 which restrict the use of 25 varieties of fruits and berries in the manufacture of alcoholic products. Their exemption is contained in an amendment to the order made by the War Food Administration.

The order restricts the use of any variety, type, or form of the following fruits and berries in the manufacture of an alcoholic product: apples, apricots, cantaloupes, cherries, currants, concord grapes, dates, peaches, pears, pineapples, plums, prunes, blackberries, blueberries, boysenberries, dewberries, elderberries, gooseberries, huckleberries, johnsonberries, loganberries, olympic berries, raspberries, strawberries, and youngberries.

The term "concord grapes" is defined under the amendment as "any and all strains of concord-type grapes of the purple slip-skin varieties, including, but not limited to, the Concord, Cottage, Eaton, Hartford, Hicks, Rockwood, Ives, and Worden varieties."

The amendment also specifies that the order applies only to the forty-eight states and the District of Columbia, and does not extend to the territories and possessions of the United States.

OCTOBER 4, 1943



WAR FOOD ADMINISTRATION

[FDO 69-1]

PART 1405—FRUITS AND VEGETABLES

DELEGATION OF AUTHORITY WITH RESPECT TO FRUIT USED IN LIQUORS

Pursuant to the authority vested in me by Food Distribution Order No. 69, issued by the War Food Administrator on July 26, 1943, and as later amended, effective in accordance with the provisions of Executive Order No. 9280, dated December 5, 1942; Executive Order No. 9322, dated March 26, 1943; and Executive Order No. 9334, dated April 19, 1943, and in order to effectuate the purposes of the aforesaid orders, it is hereby ordered as follows:

§ 1405.32 (a) *Definitions.* When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "order" means Food Distribution Order No. 69 issued by the War Food Administrator on July 26, 1943, as amended.

(2) Each term defined in said Food Distribution Order No. 69, issued by the War Food Administrator on July 26, 1943, as amended, shall, when used herein, have the same meaning as set forth in said Food Distribution Order No. 69, as amended.

(b) *Appointment of regional authorization officers.* In accordance with the provisions of the order, the Director

hereby appoints the following as regional authorization officers:

Region, Appointee and City

Northeast, George St. Louis, New York, N. Y.

Great Lakes, Donald E. Smith, Chicago, Illinois.

Great Lakes, John Halpine, Jr., Chicago, Illinois.

Midwest, Chester Gibbons, Des Moines, Iowa.

Rocky Mountain, Hans C. Hess, Denver, Colorado.

Pacific, William Rosenberg, San Francisco, California.

Pacific, Russell M. Walker, San Francisco, California.

Pacific, Harold A. Brock, Portland, Oregon.

Southwest, W. B. Renfro, Dallas, Texas.

Southeast, Robert Evans, Atlanta, Georgia.

Southeast, Ralph Woodside, Atlanta, Georgia.

(c) *Authority delegated.* In further accordance with the provisions of the order, there is hereby delegated to each regional authorization officer the authority to release fruit, in his region, for use in the production of an alcoholic product, as provided in § 1405.13 (b) (1) (i) of the order under the following conditions:

(1) Said authorization to release a particular lot of fruit, for use in the production of an alcoholic product, for sale, having an alcoholic content of 7 percent, or more, by volume, shall be issued by the regional authorization officer of the

region in which such fruit is available for sale, if such regional authorization officer determines with respect to the particular lot of fruit that (i) no market is available for such fruit for human consumption, except when used in the production of such alcoholic product, for sale, having an alcoholic content of 7 percent, or more, by volume, or the fruit is unsuitable for human consumption, except when used in the production of such alcoholic product, for sale, having an alcoholic content of 7 percent, or more, by volume: *Provided*, That the owner of such fruit and all previous owners, if any, have exercised, or prior to the fruit's becoming unsuitable for human consumption, did exercise, all reasonable efforts to dispose of or utilize such fruit for human consumption, except when used in the production of an alcoholic product, as aforesaid; and (ii) the granting of such permission to use the fruit for the aforesaid purpose is in accordance with such additional conditions, if any, as may be specified by the Director.

(d) *Effective date.* The provisions hereof shall become effective at 12:01 a. m., e. w. t., October 6, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 69, 8 F.R. 10477)

Issued this 4th day of October 1943.

ROY F. HENDRICKSON,
Director of Food Distribution.

